PART IV 626

Section 1-B.

CENTRAL ACTS AND ORDINANCES AND ORDERS UNDER THE CONSTITUTION BY THE PRESIDENT.

NOTIFICATION.

No. L.D. 2014—Legis. 4-51-85, dated Bangalore, 2nd February 1952.

Ordered that the Requisitioning and Acquisition of Immovable Property Ordinance, 1952 (Central Ordinance III of 1952), published in the *Gazette of India*, Part II, Section 1, dated the 25th January 1952, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

THE REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY ORDINANCE, 1952.

No. III OF 1952.

An Ordinance to provide for the requisitioning and acquisition of immovable property for the purposes of the Union.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. Short title, extent and commencement.—(*1*) This Ordinance may be called the Requisitioning and Acquisition of Immovable Property Ordinance, 1952.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force at once.

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2. Definitions.—In this Ordinance, unless the context otherwise requires,—

(*a*) "award" means any award of an arbitrator made under section 8;

(*b*) "competent authority" means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform th functions of the competent authority under this Ordinance for such area a may be specified in the notification;

(*c*) "landlord" means any person who for the time being is receiving, or is entitled to receive, the rent of any premises, whether on his own account, or on account or on behalf or for the benefit, of any other person or as a trustee, guardian or receiver for any other person, or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant;

(*d*) the expression "person interested", in relation to any property, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the requisitioning or acquisition of that property under this Ordinance;

(*e*) "premises" means any building or part of a building and includes—

(i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building;

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(*f*) "prescribed" means prescribed by rules made under this Ordinance;

(*g*) "property" means immovable property of every kind and includes any rights in or over such property;

(*h*) "tenant" means any persons by whom or on whose account rer is payable for any premises and includes such sub-tenants and other person as have derived title under the tenant under any law for the time being in force.

3. Power to requisition immovable property.—(*1*) Where the competent authority is of opinion that any property is needed or likely to be needed for any public purpose, being a purpose of the Union, and that the property should be requisitioned, the competent authority—

(*a*) shall call upon the owner or any other person who may be in possession of the property by notice in writing to show cause, within fifteen days of the date of the service of such notice on him, why the property should not be requisitioned; and

(*b*) may, by order, direct that neither the owner of the property nor any other person shall, without permission of the competent authority, dispose of, or structurally alter, the property or let it out to a tenant until the expiry of such period, not exceeding two months, as may be specified in the order.

(*2*) If, after considering the cause, if any, shown by any person interested in the property or in possession thereof, the competent authority is satisfied that it is necessary or expedient so to do, it may, by order in writing, requisition the property and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no property which is exclusively used either for the purpose of religious worship or as a school, hospital or an orphanage shall be requisitioned.

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4. Power to take possession of requisitioned property.—(1) Where any property has been requisitioned under section 3, the competent authority may, by notice in writing, order the owner as well as any other person who may be in possession of the property to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within ten days of the service of the notice.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may take possession of the property and may, for that purpose, use such force as may be necessary.

5. Rights over requisitioned property.—(1) Where any property is requisitioned under section 3, the competent authority may use or deal with the property in such manner and for such purposes of the Union as may appear to it to be expedient.

(2) Where any premises are requisitioned under section 3, the competent authority may order the landlord to execute such repairs as may be necessary and are usually made by landlords in that locality and as may be specified in the notice, within such time as may be mentioned therein, and if the landlord fails to execute any repairs in pursuance of such order, the competent authority may cause the repairs specified in the order to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord.

6. Release from requisitioning.—(1) The Central Government may at any time release from requisition any property requisitioned under this Ordinance and shall, as far as possible, restore the property in as good a condition as it was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force.

(2) Where any property is to be released from requisition, the competent authority may, after such inquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given.

(3) The delivery of possession of the property to the person specified in an order under sub-section (2) shall be a full discharge of the Central Government from all liability in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is given.

(4) Where any person to whom possession of any requisitioned property is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the competent authority shall cause a notice declaring that the property is released from requisition to be affixed on some conspicuous part of the property and shall also publish the notice in the Official Gazette.

(5) When a notice referred to in sub-section (4) is published in the Official Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof and the Central Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

(6) Where any property requisitioned under this Ordinance or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest,

flood or violence of any army or of a mob or other irresistible force, the requisition shall, at the option of the Central Government, be void :

Provided that the benefit of this section shall not be available to the Central Government where the injury to such property is caused by any wrongful act or default of that Government.

7. Power to acquire requisitioned property.—(*1*) Where any property is subject to requisition, the Central Government may at any time acquire such property by publishing in the Official Gazette a notice to the effect that the Central Government has decided to acquire the property in pursuance of this section.

(*2*) When a notice as aforssaid is published in the Official Gazette, the requisitioned property shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Central Government free from all encumbrances and the period of requisition of such property shall end.

(*3*) No property shall be acquired under this section except in the following circumstances, namely :—

(*a*) where any works have, during the period of requisition, been constructed on, in or over, the property wholly or partially at the expense of the Central Government and the Government decides that the value of, or the right to use, such works should be secured or preserved for the purposes of Government ; or

(*b*) where the cost of restoring the property to its condition at the time of its requisition would, in the determination of the Central Government, be excessive and the owner declines to accept release from requisition of the property without payment of compensation for so restoring the property.

(*4*) Any decision or determination of the Central Government under sub-section (*3*) shall be final and shall not be called in question in any court.

(*5*) For the purposes of clause (*a*) of sub-section (*3*) "works" includes buildings, structures and improvements of every description.

8. Principles and method of determining compensation.—(*1*) Where any property is requisitioned or acquired under this Ordinance, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(*a*) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement ;

(*b*) where no such agreement can be reached, the Central Governmenr shall appoint as arbitrator a person who is, or has been, or is qualified fot appointment as, a Judge of a High Court ;

(*c*) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned or acquired to assist the arbitrator and where such nomination is made, person to be compensated may also nominate an assessor for the same purpc

(*d*) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation ;

(*e*) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid ; and

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in making the award he shall have regard to the circumstances of each case and the provisions of sub-sections (2) and (3), so far as they are applicable ;

(*f*) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons ;

(*g*) nothing in the Arbitration Act, 1940 (X of 1940) shall apply to arbitrations under this section.

(*2*) The amount of compensation payable for the requisitioning of any property shall consist of—

(*a*) a recurring payment, in respect of the period of requisition, of a sum equal to the rent which would have been payable for the use and occupation of the property, if it had been taken on lease for that period ; and

(*b*) such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely :—

(*i*) pecuniary loss due to requisitioning ;

(*ii*) expenses on account of vacating the requisitioned premises ;

(*iii*) expenses on account of re-occupying the premises upon release from requisition ; and

(*iv*) damages (other than normal wear and tear) caused to the property during the period of requisition, including the expenses that may have to be incurred for restoring the property to the condition in which it was at the time of requisition.

(*3*) The compensation payable for the acquisition of any property under section 7 shall be—

(*a*) the price which the requisitioned property would have fetched in the open market, if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition, or

(*b*) twice the price which the requisitioned property would have fetched in the open market if it had been sold on the date of requisition,

whichever is less.

9. Payment of compensation.—The amount of compensation payable under an award shall, subject to any rules made under this Ordinance, be paid by the competent authority to the person or persons entitled thereto in such manner as may be specified in the award.

10. Appeals from orders of requisitioning.—(*1*) Any person aggrieved by an order of requisition made by the competent authority under sub-section (*2*) of section 3 may, within ten days from the date of service of the order, prefer an appeal to the Central Government :

Provided that the Central Government may entertain the appeal after the expiry of the said period of ten days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(*2*) On receipt of an appeal under sub-section (*1*), the Central Government may, after calling for a report from the competent authority and after making such further inquiry, if any, as may be necessary, pass such orders as it thinks fit and the order of the Central Government shall be final.

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(3) Where an appeal is preferred under sub-section (1), the Central Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

11. Appeals from awards in respect of compensation.—Any person aggrieved by an award of the arbitrator made under section 8 may, within thirty days from the date of such award, prefer an appeal to the High Court within whose jurisdiction the requisitioned or acquired property is situate:

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

12. Competent authority and arbitrator to have certain powers of civil courts.—The competent authority and the arbitrator appointed under section 8 while holding an inquiry or, as the case may be, arbitration proceedings under this Ordinance; shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908 (Act V of 1908) in respect of the following matters, namely :—

(*a*) summoning and enforcing the attendance of any person and examining him on oath ;

(*b*) requiring the discovery and production of any document ;

(*c*) reception of evidence on affidavits ;

(*d*) requisitioning any public record from any court or office ;

(*e*) issuing commissions for examination of witnesses.

13. Power to obtain information.—The Central Government or the competent authority may, with a view to carrying out the purposes of section 3 or section 6, or section 7 or section 8 by order require any person to furnish to such officer, as may be specified in the order, such information in his possession as may be specified relating to any property which is requisitioned or acquired, or intended to be requisitioned or acquired, under this Ordinance.

14. Power to enter and inspect.—The competent authority or any officer, empowered in this behalf by such authority by general or special order, may enter and inspect any property for the purposes of determining whether, and if so, in what manner, an order under this Ordinance should be made in relation to such property or with a view to securing compliance with the order made under this Ordinance.

15. Service of notice and orders.—(*1*) Subject to the provisions of this section and any rules that may be made under this Ordinance, every notice or order issued or made under this Ordinance shall,—

(*a*) in the case of any notice or order of a general nature or affecting a class of persons, be published in the Official Gazette ; and

(*b*) in the case of any notice or order affecting an individual corporation firm, be served in the manner provided for the service of summons in Rule 2 of Order XXIX or Rule 3 of Order XXX as the case may be, in the First Schedule of the Code of Civil Procedure, 1908 (Act V of 1908) ; and

(*c*) in the case of any notice or order affecting an individual person (not being a corporation or firm), be served on such person—

(*i*) by delivering or tendering it to that person ; or

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(*ii*) if it cannot be so delivered or tendered by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or

(*iii*) by post.

(*2*) Where the ownership of the property is in dispute or where the persons interested in the property are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing it in the Official Gazette, and where possible, by affixing a copy thereof on any conspicuous part of the property to which it relates.

16. Easement not to be disturbed.—No person interested in any property requisitioned or acquired under this Ordinance shall, without the previous written consent of the competent authority or except for the purposes of effecting repairs or complying with a municipal requirement, wilfully disturb any convenience or easement attached to such property or remove, destroy or render unserviceable any thing provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the property.

17. Delegation of powers.—The Central Government may, by general or special order, direct that the powers exercisable by it by or under this Ordinance shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercisable also by an officer subordinate to that Government.

18. Protection of action taken in good faith.—(*1*) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any order made thereunder.

(*2*) No suit or other legal proceeding shall lie against the Central Government or the competent authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Ordinance or any order made thereunder.

19. Bar of jurisdiction of civil courts.—Save as otherwise expressly provided in this Ordinance, no civil court shall have jurisdiction in respect of any matter which the competent authority or arbitrator is empowered by or under this Ordinance to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Ordinance.

20. Penalty for offences.—Whoever contravenes any provision of this Ordinance, or of any rule made thereunder, or any order made or direction given under this Ordinance, or obstructs the lawful exercise of any power conferred by or under this Ordinance, shall be punishable with fine which may extend to one thousand rupees.

21. Certain persons to be public servants.—The competent authority, every arbitrator and every officer empowered by the Central Government or the competent authority, while exercising any power or performing any duty under this Ordinance, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

22. Power to make rules.—(*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Ordinance.

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(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the procedure to be followed by the competent authority in making inquiries under section 3 or section 6 ;

(*b*) the procedure to be followed in arbitration proceedings and appeals under this Ordinance ;

(*c*) levy of court-fee in respect of appeals under section 11 ;

(*d*) the principles to be followed in determining the amount of compensation and method of payment of such compensation ;

(*e*) the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal under this Ordinance ;

(*f*) the manner of service of notices and orders ;

(*g*) any other matter which has to be, or may be, prescribed.

23. Validation of certain requisitions.—All immovable property which purports to have been requisitioned by a State Government for any public purpose, being a purpose of the Union, under any Provincial or State Act and which, immediately before the commencement of this Ordinance, is used or occupied by the Central Government or by an officer or authority subordinate to that Government shall, on such commencement, be deemed to be property duly requisitioned under section 3 of this Ordinance, and every such requisition shall, notwithstanding any judgment, decree or order of any court, be deemed always to have been valid as if this Ordinance had been in force on and from the date of the requisition and the requisition had been duly made by a competent authority under this Ordinance, and all the provisions of this Ordinance shall apply accordingly :

Provided that all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Ordinance and in force immediately before such commencement, shall be valid and shall be deemed always to have been valid and shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement.

24. Repeals and Savings.—(*1*) The Requisitioned Land (Continuance of Powers) Act, 1947 (XVII of 1947) and the Delhi Premises (Requisition and Eviction) Act, 1947 (XLIX of 1947) are hereby repealed.

(2) For the removal of doubts, it is hereby declared that any property which immediately before such repeal was subject to requisition under the provisions of either of the said Acts shall, on the commencement of this Ordinance, be deemed to be property requisitioned under section 3 of this Ordinance, and all the provisions of this Ordinance shall apply accordingly :

Provided that—

(a) all agreements and awards for the payment of compensation in resp of any such property for any period of requisition before the commencement of this Ordinance and in force immediately before such commencement, shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement;

(b) anything done or any action taken (including any orders, notifications or rules made or issued) in exercise of the powers conferred by or under either of the said Acts shall, in so far as it is not inconsistent with the provisions of this Ordinance, be deemed to have been done or taken in the exercise of the

powers conferred by or under this Ordinance as if this Ordinance were in force on the day on which such thing was done or action was taken.

25. Amendment of Act XXVII of 1950.—The following amendments shall be made in the Government Premises (Eviction) Act, 1950, namely :—

(*1*) In sub-section (2) of Section 1, for the words "the States of Jammu and Kashmir and Delhi", the words "the State of Jammu and Kashmir" shall be substituted.

(*2*) For clause (*b*) of Section 2, the following clause shall be substituted, namely :—

"(*b*) 'Government premises' means any premises or land belonging to or taken on lease or requisitioned by, the Central Government or requisitioned by the competent authority under the Requisitioning and Acquisition of Immovable Property Ordinance, 1952, and, in relation to the State of Delhi, includes any premises or land belonging to any municipality in Delhi or any land belonging to the Improvement Trust, Delhi, whether such land is in the possession of, or leased out by, the Improvement Trust."

(*3*) In section 3, for the words "the premises" wherever they occur, the words "the Government premises" shall be substituted.

(*4*) For Section 4, the following section shall be substituted, namely :—

"4. *Power to recover rent or damages in respect of Government premises as arrears of land revenue.*—(*1*) Subject to any rules that may be made in this behalf by the Central Government, by notification in the Official Gazette, any sum due by way of rent in respect of any Government premises which is in arrear may be recovered by the competent authority from the person liable to pay the same in the same manner as an arrear of land revenue.

(*2*) Where any person is in unauthorised occupation of any Government premises, the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the Government premises as it thinks fit and may, by notice served by post or in such other manner, as may be prescribed by rules made in this behalf, order that person to pay the damages within such time as may be specified in the notice.

(*3*) If any person refuses or fails to pay the damage within the time specified in the notice under sub-section (2), the damages may be recovered in the same manner as an arrear of land revenue."

(*5*) In sub-section (2) of Section 10—

(*i*) after clause (*b*), the following clause shall be inserted, namely :—

"(*bb*) the circumstances under which rent in respect of Government premises may be recovered as an arrear of land revenue;";

(*ii*) to clause (*c*) the words "and the matters which may be taken into account in assessing such damages" shall be inserted;

(*iii*) after clause (*c*), the following clause shall be inserted, namely :—

"(*cc*) the manner of service of any notice under this Act;".

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.